



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

DRAFT

Date Amended:	08/20/10	Bill No:	AB 50
Tax:	Property	Author:	Nava, et al
Related Bills:	AB 1568 (2009) AB 1662 (Portantino) AB 1690 (Chesbro) AB 1766 (Gaines) AB 2136 (V. Manual Perez) SB 1494 (SR&T)		

BILL SUMMARY

Among other things, this bill would:

- **Homeowners' Exemption.** Allow persons whose homes were destroyed in specified wildfires in **Placer and Kern County** occurring in 2009 and 2010 to retain the homeowners' exemption on their property while they are in the process of rebuilding. §218.1
- **State Reimbursement for Local Governments.** Provide state reimbursement for specified fiscal years to backfill property tax revenue loss in that fiscal year resulting from assessment reductions related to the following wildfires for which the Governor declared a state of emergency.
 - **Santa Barbara County:** November 2008 Fires. §§195.146, 195.147, 195.148
 - **Orange, Riverside, & San Bernardino Counties:** November 2008 Fires. §§195.152, 195.153, 195.154
 - **Santa Barbara County:** May 2009 Fires. §§195.155, 195.156, 195.157
 - **Placer County:** August 2009 Fires. §§195.161, 195.162, 195.163
 - **Kern County:** July 2010 Fires. §§195.173, 195.174, 195.175
- **Future Wildfires.** Limit state reimbursement to backfill property tax revenue loss for future fire disasters occurring after January 1, 2010 to counties that have met specified fire protection, prevention, and education requirements. §170.5

SUMMARY OF AMENDMENTS

The amendments since the previous analysis, in part, add provisions for the Kern and Placer County fires and delete provisions related to the homeowners' exemption for the other fires which have already been provided by legislation enacted last year.

ANALYSIS

CURRENT LAW

Homeowners' Exemption. Article XIII, Section 3(k) of the California Constitution exempts from property tax the first \$7,000 of the full value of a dwelling when occupied by an owner as his principal residence. This exemption is commonly referred to as the "homeowners' exemption."

Section 218 of the Revenue and Taxation Code details the qualifications for the homeowners' exemption authorized by the constitution. Eligibility is generally continuous once granted. However, if a property is no longer owner-occupied, is vacant, or is under construction on the lien date (January 1), the property is not eligible for the exemption for the upcoming tax year.

Relevant to this bill, homes that are totally destroyed on the lien date for a particular fiscal year (that is January 1 for the forthcoming fiscal year that begins July 1) are not eligible for the homeowners' exemption. For example, a home destroyed on or before January 1, 2009 is not eligible for the homeowners' exemption on the 2009-10 property tax bill.¹

Disaster Relief - Property Reassessment for Property Owners. Section 170 of the Revenue and Taxation Code provides that property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance authorizing these provisions. These provisions apply to both governor-declared disasters and site-specific disasters such as a home fire. Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property as of the date of the disaster to recognize the loss in a property's market value. The loss in value must be at least \$10,000. The prior assessed value of the damaged property is reduced in proportion to the loss in market value; the new reduced value is used to calculate a pro-rata reduction in taxes. The affected property retains its lower value, with reduced taxes, until it is restored, repaired, or reconstructed. Generally, taxpayers have up to 12 months to file a request for reassessment.

Disaster Relief - State Reimbursement for Local Governments. Additionally, legislation is frequently enacted to fully reimburse local governments for one fiscal year's property tax revenue loss associated with Section 170 reductions in assessment.

PROPOSED LAW

Homeowners' Exemption. This bill would allow persons whose homes were destroyed in specified Placer and Kern county wildfires to retain the homeowners' exemption on their property while they are in the process of rebuilding. Those are:

Placer County Wildfires - August 2009. Related to the governor-declared disaster proclamation for Placer County issued in August 2009, this bill adds Section 218.1 to provide that a dwelling qualified for the homeowners' exemption prior to August 30, 2009 that was subsequently damaged or destroyed by the wildfires and any other related casualty, will continue to be eligible for the homeowners' exemption.
§218.1(b)

Kern County Wildfires – July 2010. Related to the governor-declared disaster proclamation for Kern County issued in July 2010, this bill adds Section 218.1 to provide that a dwelling qualified for the homeowners' exemption prior to July 26, 2010 that was subsequently damaged or destroyed by the wildfires and any other related casualty, will continue to be eligible for the homeowners' exemption.
§218.1(c)

¹A home destroyed after January 1, 2010, would continue to be eligible for the exemption on the 2010-11 property tax bill. However, if the home has not been rebuilt and occupied by the next lien date, January 1, 2011, it would not be eligible for the homeowners' exemption on the 2011-12 property tax bill.

State Reimbursement for Local Governments. This bill also provides state reimbursement for property tax revenue losses due to Section 170 disaster relief reassessments for a specified fiscal year. Specifically, it adds provisions to the Revenue and Taxation Code that outline the process and timeline to be followed by the affected counties, the Department of Finance, and the State Controller. The following table notes the specifics for each county:

County	Disaster	Event	Sections	Fiscal Year Reimbursed	County Loss Estimate Due
Santa Barbara	Wildfires	November 2008	§195.146 §195.147 §195.148	2008-09	October 30, 2010
Orange Riverside San Bernardino	Wildfires	November 2008	§195.152 §195.153 §195.154	2008-09	October 30, 2010
Santa Barbara	Wildfires	May 2009	§195.155 §195.156 §195.157	2008-09	October 30, 2010
Placer	Wildfires	August 2009	§195.161 §195.162 §195.163	2009-10	October 30, 2010
Kern	Wildfires	July 2010	§195.173 §195.174 §195.175	2010-11	October 30, 2010

State Reimbursement – Major Wildfires Occurring After January 1, 2010. This bill adds Revenue and Taxation Code Section 170.5 to provide that, for any fire disaster occurring after January 1, 2010, the Department of Finance will not certify a county auditor's estimate of property tax reductions from Section 170 reassessments as a result of those disasters, unless the county demonstrates it was in compliance with specified requirements at the time the fire occurred. These requirements relate to arrangements for structural fire protection services in state responsibility areas (areas where the state is responsible for wildland fire protection), fire prevention requirements specific to land in very high fire hazard severity zones, and public education programs related to fire risk reduction for land designated in very high fire hazard severity zones. Thus, there would be no state reimbursement for property tax revenue losses unless these requirements were satisfied.

IN GENERAL

Disaster Relief. There are a variety of provisions in property tax law to provide property tax relief for disaster victims. These provisions address both the short term and the long term consequences of the disaster as it relates to current and future property tax liabilities. In the short term, property tax liability is redetermined to reflect the damage to the property. Additionally, some taxpayers may defer the next property tax installment payment. Over the long term, property owners may rebuild or repair damaged properties without incurring any increase in property tax liability. Alternatively, property owners may relocate rather than rebuild without being adversely impacted by the property tax consequences. The various provisions in the Revenue and Taxation Code are noted as follows.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

DISASTER RELIEF REFERENCE CHART

Section	Property Type	Type of Relief Available	Type of Disaster
170	All property types	Reassessment	Any disaster or calamity
194 & 194.1	Real property and manufactured homes	Property tax deferral – next installment	Governor-proclaimed
195.1	Real property and manufactured homes	Property tax deferral – second consecutive installment	Governor-proclaimed
194.9	Real property and manufactured homes	Property tax deferral – supplemental assessment	Governor-proclaimed
69	All property types	Base year value transfer	Governor-proclaimed
69.3	Principal place of residence	Base year value transfer	Governor-proclaimed
69.5	Principal place of residence —over 55 or physically disabled	Base year value transfer	Any disaster or calamity
172 & 172.1	Manufactured home	Base year value transfer	Governor-proclaimed
70	Real property only	New construction exclusion	Any disaster or calamity
5825	Manufactured home	New construction exclusion; Base year value transfer	Any disaster or calamity

BACKGROUND

Special purpose legislation has been enacted in recent years to provide that dwellings that were destroyed by specific disasters, as noted in the following table, will not be disqualified as a “dwelling” or be denied the homeowners’ exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

Disaster	Year	Legislation
Wildfires – Multiple Counties	2009	Stats. 2009, Ch. 299 (AB 1568)
Fire, Wind, Storms – Multiple Counties	2008	Stats. 2008, Ch. 386 (SB 1064)
Zaca Fire – Santa Barbara and Ventura	2007	Stats. 2007, Ch. 224 (AB 62)
Angora Fire – El Dorado County	2007	Stats. 2007, Ch. 224 (AB 62)
Freeze	2007	Stats. 2007, Ch. 224 (AB 62)
Day and Shekell Fires - Ventura County	2006	Stats. 2007, Ch. 224 (AB 62)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 396 (AB 1798)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 897 (AB 2735)
Shasta Wildfires	2005	Stats. 2005, Ch. 623 (AB 164)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 624 (AB 18)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 622 (SB 457)
San Joaquin levee break	2004	Stats. 2004, Ch. 792 (SB 1147)

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Disaster	Year	Legislation
San Simeon earthquake	2003	Stats. 2004, Ch. 792 (SB 1147)
Southern California wildfires	2003	Stats. 2004, Ch. 792 (SB 1147)
Oakland/Berkeley Hills fire	1992	Stats. 1992, Ch. 1180 (SB 1639)
Los Angeles civil riots	1991	Stats. 1992, Ch. 17X (AB 38 X)

COMMENTS

1. **Sponsor and Purpose.** The author is sponsoring this measure to provide some financial relief to persons whose homes were damaged or destroyed as a result of fires occurring in various counties and provide property tax revenue backfills to affected local governments.
2. **Amendments.** The **August 20, 2010** amendments add provisions for the Kern County wildfire of July 2010. The amendments also recast the homeowners' exemption provisions for Placer and Kern County into newly added Section 218.1 and delete the homeowners' exemption provisions for the remaining 2008 and 2009 fires since those provisions were already enacted last year by AB 1568 (Stats. 2009, Ch. 299). The **April 22, 2010** amendments added provisions for the Placer County wildfire of August 2009. The **September 1, 2009** amendments added Section 170.5 to the bill and add the conditional enactment provisions joining this bill to passage of both AB 666 and SB 505. The **June 24, 2009** amendments added coauthors. The **June 1, 2009**, amendments added the fires of May 2009. The **April 13, 2009** amendments were related to eligibility for full state reimbursement of local agency costs for certain disasters under Government Code Section 8686. These provisions are outside the Board's purview and not addressed in this analysis.
3. **Governor's Proclamations of a State of Emergency:**
 - **Santa Barbara County:** On November 14, 2008, the Governor issued a proclamation for wildfires that started on November 13, 2008. <http://gov.ca.gov/proclamation/11020/>
 - **Orange and Riverside Counties:** On November 15, 2008, the Governor issued a proclamation for wildfires that started on November 15, 2008. <http://gov.ca.gov/proclamation/11058/>
 - **San Bernardino County:** On November 17, 2008, the Governor issued a proclamation for wildfires that started on November 16, 2008. <http://gov.ca.gov/proclamation/11069/>
 - **Santa Barbara County:** On May 7, 2009, the Governor issued a proclamation for wildfires that started on May 5, 2009. <http://gov.ca.gov/proclamation/12235/>
 - **Placer County:** On August 30, 2009, the Governor issued a [proclamation](#) for wildfires that started on August 30, 2009.
 - **Kern County:** On July 28, 2010, the Governor issued a proclamation for wildfires that started on July 26, 2010. <http://gov.ca.gov/proclamation/15693/>
4. **This bill would allow homeowners whose residences were damaged or destroyed in the Placer or Kern County fires to retain the homeowners' exemption on their property while they are in the process of rebuilding their homes.** Homes that are uninhabitable on the lien date (January 1) are technically ineligible for the exemption for the upcoming fiscal year under current law. Similar

provisions for homeowners in the remaining counties have already been provided by AB 1568 (Stats. 2009, Ch. 299) and are found in subdivisions of (w), (x) and (y) of Section 218

5. **The Board advises county assessors that damaged homes may keep the exemption but totally destroyed homes may not.** Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners' exemption for those properties temporarily vacated for repairs. (See Letter To Assessors 82/50, Question G16) However, when a dwelling has been totally destroyed, staff has opined that because no dwelling exists there is no occupancy or possibility of occupancy on the lien date and the property would not be eligible for the exemption even if the property was under construction. (See Property Tax Annotation 505.0019 "Homeowners' Exemption – Disaster Impact") Referenced documents are available at www.boe.ca.gov select "Property Tax."
6. **Related Bills.** AB 1662 (Portantino) also limits future state reimbursements for property taxes losses due to major wildfires. However, its provisions add Section 170.6 to the Revenue and Taxation Code and only apply to wildfires that commence on or after January 1, 2011 (rather than January 1, 2010). AB 1766 (Gaines) previously contained provisions for the Placer County fire which has since been removed from that bill. AB 1690 (Chesbro) and AB 2136 (V. Manual Perez) provide similar provisions for other disasters. In addition, SB 1494 (SR&T) proposes to amend Section 218 to make the homeowners' exemption provisions of this bill standard for all Governor declared disasters without the need for special purpose legislation.

COST ESTIMATE

With respect to administration, the Board would incur insignificant costs in informing and advising local county assessors, the public, and staff of the law changes. These costs are estimated to be under \$10,000.

REVENUE ESTIMATE

The revenue estimate is limited to the property tax provisions of this bill.

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

Homeowners' Exemption Subvention. Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners exemption for those properties temporarily vacated for repairs. Therefore, damaged properties were not factored into the revenue estimate.

Based on the information from affected counties, we estimate that 70 homes were totally destroyed at the statewide property tax rate of 1.0%; the continued subvention for each county is noted in the following table.

County	Date	Number of Homes Destroyed	Total Homeowners' Exemptions (# x \$7,000)	Continued Subvention
Placer	August 2009	40	\$280,000	\$2,800
Kern	July 2010	30	\$210,000	\$2,100
Total		70	\$490,000	\$4,900

Property Tax Reimbursement for Property Tax Revenue Losses. Based on the information from affected counties, the estimate of loss of assessed value resulting from damage and destruction related to the various wildfires for each county is noted in the table below. At the average statewide 2008-09 tax rate of 1.108%, the total property tax revenue loss subject to reimbursement due to assessed value reductions of \$346 million would be \$3,833,690.

County	Date	Assessed Value Property Damage	Property Tax Revenue Loss
Santa Barbara	November 2008	\$223.5 million	\$2,476,380
Orange	November 2008	\$59.2 million	\$655,936
Riverside	November 2008	\$1.6 million	\$17,728
San Bernardino	November 2008	None Reported	0
Santa Barbara	May 2009	\$45 million	\$ 498,600
Placer	August 2009	\$14 million	\$155,120
Kern	July 2010	\$2.7 million	\$29,916
Total		\$346 million	\$3,833,680

REVENUE SUMMARY

Revenue Loss

Homeowners' Exemption Subvention \$ 4,900

Property Tax Revenue Loss Reimbursement 3,833,680

Total \$ 3,838,580

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